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NO FEE – GOV'T CODE § 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA, ex
rel. MICHAEL N. FEUER, as City Attorney of the City
of Los Angeles,

Plaintiff,

vs.

HIGH SPIRITS ENTERPRISES LLC, a California limited
liability company doing business as KUSH CLUB 20
and/or KUSH CLUB.20; JAMES SMITH, individually
and as the organizer of High Spirits Enterprises LLC, a
California limited liability company; KUSH CLUB 20,
also known as KUSH CLUB.20, a business organization,
form unknown; AMY SAHADI DIAZ, also known as
AMY DIAZ, an individual; 5527 S. CENTRAL LLC, a
California limited liability company; MICHAEL
LERNER, individually and as a member and Chief
Executive Officer of 5527 S. Central LLC, a California
limited liability company; D/AQ CORPORATION, a
California corporation doing business as DAUM
COMMERCIAL REAL ESTATE; BENJAMIN ROBERT
SPINNER, aka BENJAMIN R. SPINNER, individually
and as Associate Vice President of D/AQ
CORPORATION, a California corporation, doing
business as DAUM COMMERCIAL REAL ESTATE;
JAMES HUY VU, aka JAMES VU, individually and as
Vice President of D/AQ CORPORATION, a California
corporation, doing business as DAUM COMMERCIAL
REAL ESTATE; and DOES 1 through 75, inclusive,

Defendants.

) Case No.: 19STCV10603

) **FIRST AMENDED**
) **COMPLAINT FOR ABATEMENT,**
) **INJUNCTIVE RELIEF, AND CIVIL**
) **PENALTIES FOR:**

) **(1) ENGAGING IN UNLICENSED**
) **COMMERCIAL CANNABIS**
) **ACTIVITY IN VIOLATION OF**
) **LOS ANGELES MUNICIPAL**
) **CODE SECTION 104.15;**

) **(2) ENGAGING IN UNLICENSED**
) **COMMERCIAL CANNABIS**
) **ACTIVITY IN VIOLATION OF**
) **THE CALIFORNIA BUSINESS**
) **AND PROFESSIONS CODE**
) **SECTION 17200, et seq.;**

) **(3) SELLING CANNABIS**
) **CONTAINING PACLOBUTRAZOL**
) **IN VIOLATION OF THE**
) **CALIFORNIA BUSINESS AND**
) **PROFESSIONS CODE SECTION**
) **17200, et seq.;**

) **(4) VIOLATION OF HEALTH AND**
) **SAFETY CODE SECTION**
) **11570, et seq.;**

) **(5) VIOLATION OF LOS ANGELES**
) **MUNICIPAL CODE SECTION**
) **12.21.A.1(a).**

) (Unlimited Action)

1 PLAINTIFF, THE PEOPLE OF THE STATE OF CALIFORNIA ("Plaintiff" or the "People"),
2 allege as follows, which allegations are upon information and belief insofar as they pertain to the
3 conduct of defendants:

4 INTRODUCTION

5 1. The People bring this action to enjoin the unlawful conduct of HIGH SPIRITS
6 ENTERPRISES LLC, a California limited liability company, doing business as Kush Club 20 and/or
7 Kush Club.20; JAMES SMITH, individually and as the organizer of High Spirits Enterprises LLC, a
8 California limited liability company; KUSH CLUB 20, also known as KUSH CLUB.20, a business
9 organization, form unknown; AMY SAHADI DIAZ, also known as AMY DIAZ, an individual, and
10 DOES 1 through 25 (the "BUSINESS DEFENDANTS"); 5527 S. CENTRAL LLC, a California limited
11 liability company; MICHAEL LERNER, individually and as a member and Chief Executive Officer of
12 5527 S. Central LLC, a California limited liability company; and DOES 26 through 50 (the
13 "PROPERTY OWNER DEFENDANTS"); and D/AQ CORPORATION, a California corporation doing
14 business as DAUM COMMERCIAL REAL ESTATE; BENJAMIN ROBERT SPINNER, aka
15 BENJAMIN R. SPINNER, individually and as Associate Vice President of D/AQ CORPORATION, a
16 California corporation, doing business as DAUM COMMERCIAL REAL ESTATE; JAMES HUY VU,
17 aka JAMES VU, individually and as Vice President of D/AQ CORPORATION, a California
18 corporation, doing business as DAUM COMMERCIAL REAL ESTATE; and DOES 51 through 75
19 ("REALTOR DEFENDANTS"). who are violating Los Angeles Municipal Code ("LAMC") section
20 104.15, subsections (a) and (b) prohibiting unlicensed and/or unlawful commercial cannabis¹ activity²,
21 and medical marijuana cooperatives and collectives, and renting, leasing to, or otherwise allowing the
22 use of any building for such activity in the City of Los Angeles ("City"). In so doing, BUSINESS
23 DEFENDANTS, PROPERTY OWNER DEFENDANTS and REALTOR DEFENDANTS (collectively,
24 "DEFENDANTS") are also in violation of California's Unfair Competition Law ("UCL") enumerated at

25
26
27 ¹ The terms "marijuana" and "cannabis" are used interchangeably herein to mean "Cannabis" as defined in Business and
Professions Code § 26001, subd. (f), and LAMC § 104.01 subsection (a)(4).

28 ² "Commercial Cannabis Activity" is defined as "the cultivation, possession, manufacture, distribution, processing, storing,
laboratory testing, packaging, labeling, transportation, delivery or sale of Cannabis or Cannabis products . . ." (See LAMC,
§ 104.01, subs. (a)(7).)

1 Business and Professions Code section 17200 et seq., California Health and Safety Code section 11570
2 et seq., and LAMC section 12.21.A.1(a) et seq.

3 ***KUSH CLUB 20 aka KUSH CLUB.20***

4 2. BUSINESS DEFENDANTS operate a commercial cannabis business known variously as
5 “KUSH KLUB 20” or “KUSH CLUB.20” (the “BUSINESS”), at 5527 S. Central Avenue, Los Angeles,
6 California 90011 (the “PROPERTY”). The BUSINESS is illegal because it violates the City’s
7 prohibition on unlicensed and/or unlawful commercial cannabis activity, and constitutes unlawful
8 business practices in violation of the UCL, violates Health and Safety Code section 11570, et seq., and
9 LAMC section 12.21.A.1(a) et seq. Moreover, the cannabis that BUSINESS DEFENDANTS sell
10 presents a nuisance under California Food and Agricultural Code section 12648 because it contains a
11 dangerous pesticide banned for use on cannabis under the California Code of Regulations.³

12 3. BUSINESS DEFENDANTS overtly operate their commercial cannabis activity without
13 regard for the City’s prohibition on unlicensed and/or unlawful commercial cannabis activity.

14 4. BUSINESS DEFENDANTS also openly advertise their wares as “Kush Club 20” on the
15 website www.weedmaps.com, including an extensive menu of cannabis strains, cannabis extracts, and
16 cannabis based products and edibles, as well as Weedmaps-hyped “deals,” for example, “Referral Deal:
17 Receive a House Joint or Dab!”. The reference to the number “20” in “Kush Club 20” and
18 “Kush Club.20” refers to the cost (\$20.00) to purchase 1/8 of an ounce, or four grams (4g), of cannabis.
19 Hence, even the name of the business “Kush Club 20” is a coded way of advertising cheap cannabis
20 typically found in unlicensed stores.

21 5. Most outrageously, the cannabis that BUSINESS DEFENDANTS sell contains
22 “Paclobutrazol,” a “plant growth regulator” type pesticide. While banned on cannabis in California, it is
23 used in golf turf management because it can “increase turf color and tiller [grass] density, improve turf
24 quality, reduce nitrogen requirements . . . [and] improve stress tolerance.”⁴ These same benefits,
25 increased color, density and the like, also make it a tool of unethical and illegal cannabis growers and
26

27 ³ California Code of Regulations, title 16, section 5719(d)(1).

28 ⁴ Kreuser, Bill. *Effective Use of Plant Growth Regulators on Golf Putting Greens*. April 5, 2015. USGA Green Section Record, page 1.

1 sellers.

2 6. According to the Environmental Protection Agency ("EPA"), Paclobutrazol is a "Type II
3 Toxic" chemical. Paclobutrazol is banned for use on cannabis by the State of California and is not
4 registered for use on food crops in California.

5 7. LAMC section 104.15, subsection (a) makes it unlawful to establish, operate, or participate
6 as an employee, contractor, agent or volunteer, in any unlicensed commercial cannabis activity or in any
7 medical marijuana collective or cooperative, and to rent, lease or otherwise allow any unlicensed
8 commercial cannabis activity or medical marijuana collective or cooperative to occupy or use any
9 building or land. (LAMC, § 104.15, subs. (a).) LAMC section 104.15, subsection (b) makes it unlawful
10 to own, operate or participate as an employee, contractor, agent, or volunteer in an unlawful
11 establishment⁵, and to lease, rent or otherwise allow an unlawful establishment to occupy any portion of
12 land. (LAMC § 104.15, subs. (b).) BUSINESS DEFENDANTS are engaged in commercial cannabis
13 activity without a license or temporary approval, and are in violation of LAMC sections 104.15 (a)
14 and (b).

15 *THE PROPERTY OWNER'S SCHEME*

16 8. KUSH CLUB 20, like other unlicensed and illegal cannabis businesses, relies on
17 cooperative and unethical landlords and brokers in order to find operating locations permitting them to
18 move in and out quickly, and to evade enforcement efforts. KUSH CLUB 20 is the most recent of the
19 several illegal cannabis businesses that have operated at the PROPERTY.

20 9. PROPERTY OWNER DEFENDANTS have engaged in an illegal, fraudulent, and unfair
21 scheme in order to profit from illegal cannabis businesses while at the same time insulating themselves
22 from wrongdoing.

23 10. The scheme consists of four (4) steps. First, it requires a broker who is willing to market a
24 property to illegal cannabis businesses in exchange for a hefty up-front (and likely all-cash) commission.

25
26
27 ⁵ "Unlawful establishment" is defined as "any Person engaged in Commercial Cannabis Activity if the Person does not have a
28 City Issued Temporary Approval or License." (LAMC, § 104.01, subs. (a)(29).) "Person" is defined to include "any
individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust,
receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular." (LAMC,
§104.01, subs. (a)(21).)

1 Second, it requires a judgment proof individual, often (as in this case) a willing employee or manager of
2 the cannabis business, as lessee. Third, the true use of the property, illegal cannabis activities, is
3 knowingly omitted from documents. BUSINESS DEFENDANTS, PROPERTY DEFENDANTS and
4 REALTOR DEFENDANTS in this instance agreed to "Church and all other legal related uses". Fourth,
5 it requires that everyone involved keeps quiet about the scheme by including *confidentiality provisions*
6 in the leases.⁶

7 11. On or about January 5, 2017 (less than two weeks after purchasing the PROPERTY)
8 PROPERTY OWNER DEFENDANTS entered into a three-year Lease Agreement for the PROPERTY
9 with Jamil Rashid Brooks, as lessee. The lease required Brooks to pay \$14,500.00 per month and
10 increased to \$15,383.00 by the third year. A commission of \$14,500.00 was paid to the broker of the
11 transaction.

12 12. The initial monthly lease payment was \$14,500 (paid quarterly) increasing in year two (2)
13 to \$14,935.00 and in year three (3) to \$15,383.05. Mr. Brooks and his associates operated an
14 unlicensed cannabis business. The lease contains no definition of a "Permitted Use" therein, but states
15 that all uses must be legal.

16 13. Thereafter a dispute arose between Mr. Brooks and PROPERTY OWNER DEFENDANTS
17 resulting in litigation entitled *Brooks v. 5527 S. Central Avenue, LLC, et al.*, Los Angeles Superior Court
18 Case No. BC696967, which is ongoing. PROPERTY OWNER DEFENDANTS have filed a cross-
19 complaint against Mr. Brooks in that litigation and allege that Mr. Brooks (and his associates) "never
20 obtained their licenses regarding marijuana distribution" and therefore "may not operate at the
21 [PROPERTY]."

22 14. In or around November 2017 PROPERTY OWNER DEFENDANTS rented the
23 PROPERTY to someone identified by LERNER only as "Ernest." According to PROPERTY OWNER
24 DEFENDANTS "Ernest" also operated an illegal cannabis business.

25 15. After "Ernest" left the PROPERTY, PROPERTY OWNER DEFENDANTS engaged
26 REALTOR DEFENDANTS to locate a new tenant for the PROPERTY.

27
28 ⁶ The confidentiality provisions are also inconsistent with State licensing requirements, which require applicants to provide
copies of lease agreements. California Code of Regulations, Title 3, Section 8104 ("Legal Right to Occupy").

1 16. On or about May 1, 2018, REALTOR DEFENDANTS met with LERNER, an individual
2 identified only as "Henry", and another unidentified individual. LERNER was presented with a lease
3 signed by defendant AMY SAHADI DIAZ who, according to LERNER, was working for someone else.
4 BENJAMIN R. SPINNER advised LERNER that AMY DIAZ was "working for someone else".

5 17. REALTOR DEFENDANTS prepared the lease.

6 18. PROPERTY OWNER DEFENDANTS entered into a five-year Standard
7 Industrial/Commercial Single Tenant Lease with AMY SAHADI DIAZ. The initial monthly rent
8 payment was \$10,000.00 increasing to \$12,000.00 in August, 2019, and \$13,506.10 by May, 2022.

9 19. LERNER knew at the time that the PROPERTY would be used for cannabis sales:

10 Q. Now, when – when the broker told you that these people were going to
11 operate a marijuana dispensary, did he say anything else about how
12 they would use the property? You indicated that they said they had a
license?⁷

13 A. Yeah, either they had a license or they were going to get a license.

14 20. LERNER and REALTOR DEFENDANTS stated in the lease that the PROPERTY would
15 be used for "Church and all other legal related uses" in order to falsely claim they have, and had, no
16 knowledge of illegal commercial cannabis activity, and in order to assist, aid, and abet BUSINESS
17 OPERATOR DEFENDANTS by including false information on lease agreement, and other documents,
18 in order to deter enforcement efforts.

19 Q. So why did you sign the lease saying that it was going to be a church?

20 A. Because they asked that it says it's a church.

21 Q. Did they say why it needed to say that?

22 A. No.

23 Q. But so despite what the contract says, you had an understanding that it
24 would be a marijuana dispensary.

25 A. I did.⁸

26 21. KUSH CLUB 20 is still operating at the PROPERTY.

27 22. BUSINESS DEFENDANTS, PROPERTY OWNER DEFENDANTS, and REALTOR
28 DEFENDANTS are violating LAMC sections 104.15 (a) and (b) by renting to, leasing, or otherwise

⁷ Deposition of Michael Lerner ("Lerner Depo.") taken January 31, 2019 in matter entitled *5527 S. Central LLC v. Amy Diaz et al.*, LASC Case No. 18STUD0926B, p. 81, lines 6-12

⁸ Lerner Depo. P. 83, lines 3-7, 19-22

1 allowing an unlawful establishment, i.e., commercial cannabis activity without a license or temporary
2 approval to occur at the PROPERTY.

3 23. Additionally, the LAMC prohibits land uses not recognized or enumerated thereunder, or
4 otherwise authorized by the City. (LAMC, § 12.21.A.1, subd. (a).) These limitations are fundamental
5 and vital to the City's ability to control the use of property in the City, and to prevent negative impacts
6 from such unauthorized uses. Cannabis related activity is not an enumerated use in the LAMC, nor is it
7 otherwise authorized as a use on any zone. Any licensed commercial cannabis activity is limited to the
8 terms and activities provided in its license. (See LAMC § 105.04.) The commercial cannabis activity
9 taking place at the PROPERTY is unlawful because it is taking place without a license or temporary
10 approval, and therefore violates LAMC section 12.21.A.1(a).

11 24. Based on DEFENDANTS' violations of the City's laws, this action seeks both injunctive
12 relief and civil penalties as provided for under LAMC section 104.15, subsection (c), which provides
13 that a violation of that section constitutes a public nuisance which may be abated by the City Attorney,
14 on behalf of the People, by means of restraining order, injunction or any other order or judgment in law
15 or equity by a court of competent jurisdiction. LAMC section 104.15, subsection (c) also provides for a
16 civil penalty of up to \$20,000 for each and every day that the offense is occurring. Based on
17 DEFENDANTS' violations of the City's laws, this action also seeks injunctive relief and civil penalties
18 provided under LAMC sections 11.00, subsection (l) and 104.15, subsection (c). Unless otherwise
19 provided, LAMC section 11.00, subsection (l) makes a violation of any provision of the LAMC a public
20 nuisance that may be abated by the City Attorney on behalf of the People, and for which civil penalties
21 of up to \$2,500 may be imposed for each and every day that a violation occurs. In contrast to the
22 amount of civil penalties allowable under LAMC section 11.00, subsection (l), LAMC section 104.15,
23 subsection (c) provides for a much steeper civil penalty of up to \$20,000 for each and every day that the
24 offense is occurring.

25 25. In addition, this action seeks injunctive relief and civil penalties pursuant to Business and
26 Professions Code section 17200 et seq. because BUSINESS DEFENDANTS' and PROPERTY
27 OWNER DEFENDANTS' and REALTOR DEFENDANTS' commercial cannabis activity is illegal
28 under LAMC section 104.15, BUSINESS DEFENDANTS AND PROPERTY OWNER

1 DEFENDANTS conduct is also illegal under Food and Agricultural Code section 12648. This conduct
2 also violates the UCL, which authorizes a City Attorney of a city with a population in excess of 750,000
3 to initiate an action on behalf of the People of the State of California. The population of the City of Los
4 Angeles exceeds 750,000. Health and Safety Code section 11570 et seq., defines as a nuisance any
5 building or place used for the purposes of unlawfully selling, serving, storing, manufacturing, or giving
6 away any controlled substance. DEFENDANTS are permitting and/or engaging in the unlawful acts
7 prohibited by Health and Safety Code section 11570, et seq. at the PROPERTY. Health and Safety
8 Code section 11570, et seq. authorizes a City Attorney to maintain an action to abate and prevent the
9 nuisance and perpetually enjoin the person conducting or maintaining it and the owner, lessee, or agent
10 of the building or place in or upon which the nuisance exists from directly or indirectly permitting or
11 maintaining the nuisance. This action also seeks relief under Health and Safety Code section 11570, et
12 seq.

13 26. Plaintiff asserts its power to remedy these injuries to the public interest by seeking to enjoin
14 DEFENDANTS' future violations of law and to assess civil penalties against DEFENDANTS for past
15 violations of law under these provisions.

16 GENERAL ALLEGATIONS

17 Parties

18 27. Plaintiff is the People of the State of California acting through the Los Angeles City
19 Attorney, Michael N. Feuer. Plaintiff brings the First Cause of Action under LAMC section 104.15,
20 subsections (a) and (b); the Second Cause of Action for violations of the UCL pursuant to Business and
21 Professions Code section 17200 et seq. based on violations of LAMC section 104.15, subsections (a)
22 and (b); the Third Cause of Action for violations of the UCL pursuant to Business and Professions
23 Code section 17200 et seq. based on violation of California Food and Agricultural Code section 12648
24 et seq.; the Fourth Cause of Action under section 11570 et seq. of the California Health and Safety
25 Code, and; the Fifth Cause of Action under section 12.21.A.1(a) of the LAMC.

26 28. Defendant HIGH SPIRITS ENTERPRISES LLC, also doing business as KUSH CLUB
27 20 or KUSH CLUB.20 is a California limited liability company doing business in the State of
28 California,

1 County of Los Angeles. Since at least April 4, 2018, its principal office address is 5527 S. Central Ave.,
2 Los Angeles, California 90011.

3 29. Defendant JAMES SMITH is an individual doing business in the State of California,
4 County of Los Angeles, and is also the organizer and agent for service of process of HIGH SPIRITS
5 ENTERPRISES LLC.

6 30. Defendant 5527 S. CENTRAL LLC is a California limited liability company doing
7 business in the State of California, County of Los Angeles. Since at least December 8, 2016, its principal
8 office address is 4221 Wilshire Blvd. Ste. 388, Los Angeles, California 90010.

9 31. Defendant MICHAEL LERNER is an individual residing in the State of California,
10 County of Los Angeles, and is also a member and the Chief Executive Officer of 5527 S. CENTRAL
11 LLC.

12 32. Defendant D/AQ CORPORATION, is a California Corporation doing business as
13 DAUM COMMERCIAL REAL ESTATE, doing business in the State of California, Los Angeles.

14 33. Defendant BENJAMIN ROBERT SPINNER, aka BENJAMIN R. SPINNER, is an
15 individual residing in the State of California, County of Los Angeles, and is employed as an Associate
16 Vice President by D/AQ CORPORATION.

17 34. Defendant JAMES HUY VU aka JAMES VU, is an individual residing in the State of
18 California, County of Los Angeles, and is employed as a Vice President by D/AQ CORPORATION.

19 35. At all times relevant herein, BUSINESS DEFENDANTS own and/or operate and/or
20 participate, and have established, owned and/or operated and/or participated in the operation of
21 unlicensed and/or unlawful commercial cannabis activity at the PROPERTY.

22 36. Defendant 5527 S. CENTRAL LLC acquired the PROPERTY on or about
23 December 23, 2016.

24 37. At all times relevant herein, PROPERTY OWNER DEFENDANTS own and have owned
25 the PROPERTY upon which unlicensed and/or unlawful commercial cannabis activity occurs.

26 38. Plaintiff is ignorant of the true names and capacities of Defendants Does 1 through 75,
27 inclusive, and as such, sues these Defendants by such fictitious names pursuant to California Code of
28 Civil Procedure section 474. Each such Defendant is responsible in some manner for conducting,

1 maintaining, or directly or indirectly permitting the unlawful activity complained of herein. When the
2 true names and capacities of said Defendants have been ascertained, Plaintiff will ask leave of the Court
3 to amend this complaint, and to insert in lieu of such fictitious names the true names and capacities of
4 any fictitiously named Defendants.

5 39. At all relevant times herein, all Defendants were and are the agents, lessors, lessees,
6 servants, employees, partners, and/or joint venturers of each other Defendant, and at all times were
7 acting within the course and scope of said relationship and with the consent of each other Defendant.

8 **Jurisdiction and Venue**

9 40. Each of the DEFENDANTS does business in the City.

10 41. The PROPERTY where the acts and practices described herein took place is located in
11 the City and is within the jurisdiction of the Los Angeles County Superior Court.

12 **The Property**

13 42. The legal description of the PROPERTY is as follows:⁹

14 The North 43 feet of Lot 5 of the Silvanus White Tract, in the City of Los
15 Angeles, County of Los Angeles, State of California, as per Map recorded in
16 Book 3 Page(s) 65 of Maps, in the Office of the County Recorder of said County.

17 **FIRST CAUSE OF ACTION**

18 **FOR VIOLATION OF THE LOS ANGELES MUNICIPAL CODE**

19 **SECTION 104.15 ET SEQ. – AGAINST ALL DEFENDANTS**

20 43. Plaintiff hereby incorporates by reference paragraphs 1 through 42 of this First Amended
21 Complaint and makes them part of this First Cause of Action, as if fully set forth herein.

22 44. Since at least April 4, 2018, BUSINESS DEFENDANTS have established, operated, or
23 participated as employees, contractors, agents or volunteers, in unlicensed commercial cannabis activity
24 and/or they have owned or operated an unlawful establishment, and/or they have participated as an
25 employee, contractor, agent or volunteer in an unlawful establishment in violation of LAMC section
26 104.15, subsections (a) and (b). Since at least April 4, 2018, PROPERTY OWNER DEFENDANTS
27

28 ⁹ The Property is commonly known as 5527 S. Central Avenue, Los Angeles, California 90011, APN 5103-019-015.

1 and REALTOR DEFENDANTS have also been in violation of LAMC section 104.15, subsections (a)
2 and (b), as they rent, lease to, or otherwise allow the PROPERTY, the buildings, and structures thereon,
3 to be used for unlicensed and/or unlawful commercial cannabis activity.

4 45. A violation of LAMC section 104.15 constitutes a public nuisance under subsection (c) of
5 LAMC section 104.15.

6 46. Plaintiff has no adequate remedy at law. Unless DEFENDANTS are restrained and
7 enjoined by order of this Court, they will continue to engage in unlicensed commercial cannabis
8 activity and they will continue to use and allow the use of the PROPERTY for such purposes in
9 violation of LAMC section 104.15, subsections (a) and (b), and they will continue to allow, permit, or
10 encourage this public nuisance on the Property, to the irreparable harm of the public.

11 **SECOND CAUSE OF ACTION**

12 **FOR VIOLATION OF THE UNFAIR COMPETITION LAW BUSINESS & PROFESSIONS**

13 **CODE SECTION 17200 ET SEQ. – AGAINST ALL DEFENDANTS**

14 47. Plaintiff hereby incorporates by reference paragraphs 1 through 46 of this First Amended
15 Complaint, and makes them part of this Second Cause of Action, as if fully set forth herein.

16 48. Since at least April 4, 2018, BUSINESS DEFENDANTS have been engaged in unlawful
17 and unfair competition within the meaning of, and in violation of, Business and Professions Code
18 section 17200 et seq. And, since at least April 4, 2018, PROPERTY OWNER DEFENDANTS and
19 REALTORY DEFENDANTS have been engaged in unlawful and unfair competition within the
20 meaning of, and in violation of, Business and Professions Code section 17200 et seq.

21 49. Such unlawful business acts or practices committed by DEFENDANTS include, but are
22 not limited to establishing, operating or participating in unlicensed commercial cannabis activity and/or
23 medical marijuana collective or cooperative, owning, operating or participating in an unlawful
24 establishment, and renting, leasing or otherwise using or allowing the use of the PROPERTY therefore,
25 in violation of LAMC section 104.15, subsections (a) and (b).

26 50. By engaging in the misconduct alleged herein, DEFENDANTS unfairly and unlawfully
27 detract from the quality of life of the community in which the BUSINESS is located. BUSINESS
28 DEFENDANTS have been and are unjustly enriched to the extent that they own or operate a store and

1 engage in commercial cannabis activity at the PROPERTY in violation of LAMC section 104.15,
2 subsections (a) and (b). PROPERTY OWNER DEFENDANTS have been and are unjustly enriched as
3 they own the PROPERTY on which the unlawful commercial cannabis activity occurs and have allowed
4 same, in violation of LAMC section 104.15, subsections (a) and (b). REALTOR DEFENDANTS have
5 been and are unjustly enriched because they rented, leased to, or otherwise allowed the unlawful
6 commercial cannabis activity at the PROPERTY, and received payment for doing so.

7 51. Plaintiff has no adequate remedy at law. Unless DEFENDANTS are restrained and
8 enjoined by order of this Court, DEFENDANTS will continue to commit unlawful business acts and
9 practices, thereby causing irreparable injury and harm to the public's welfare.

10 **THIRD CAUSE OF ACTION**
11 **FOR VIOLATION OF THE UNFAIR COMPETITION LAW**
12 **BUSINESS & PROFESSIONS CODE SECTION 17200 ET SEQ. – AGAINST BUSINESS**
13 **DEFENDANTS AND DOES 1 THROUGH 25, RESPECTIVELY**

14 52. Plaintiff hereby incorporates by reference paragraphs 1 through 51 of this First Amended
15 Complaint, and makes them part of this Third Cause of Action, as if fully set forth herein.

16 53. Since at least April 4, 2018, BUSINESS DEFENDANTS have been engaged in unlawful
17 and unfair competition within the meaning of, and in violation of, Business and Professions Code
18 section 17200 et seq.

19 54. Such unlawful business acts or practices committed by BUSINESS DEFENDANTS
20 include, but are not limited to, selling and providing cannabis containing Paclobutrazol in violation of
21 the California Code of Regulations, title 16, section 5719(d)(1), banning Paclobutrazol on cannabis.

22 55. Pursuant to California Food and Agricultural Code section 12648 “. . . a plant, crop, or
23 commodity . . . that has been treated with . . . a pesticide that is not registered for use on that plant, crop,
24 commodity . . . is a public nuisance . . .” BUSINESS DEFENDANTS’ cannabis is a public nuisance
25 because it has been treated with Paclobutrazol.

26 56. Plaintiff has no adequate remedy at law. Unless BUSINESS DEFENDANTS are
27 restrained and enjoined by order of this Court they will continue to commit unlawful business acts and
28 practices, thereby causing irreparable injury and harm to the public's welfare.

FOURTH CAUSE OF ACTION
FOR VIOLATION OF HEALTH AND SAFETY CODE SECTION 11570 ET SEQ. -
AGAINST BUSINESS OWNER DEFENDANTS AND PROPERTY OWNER DEFENDANTS

57. Plaintiff hereby incorporates by reference paragraphs 1 through 56 of this First Amended Complaint and makes them a part of this Fourth Cause of Action, as if fully set forth herein.

58. Since at least April 4, 2018, the PROPERTY has been used for the purposes of unlawfully selling, serving, storing, keeping, manufacturing or giving away controlled substances and/or is a building or place wherein or upon which those acts take place.

59. Since at least April 4, 2018, BUSINESS OWNER DEFENDANTS AND PROPERTY OWNER DEFENDANTS have directly or indirectly conducted, maintained or permitted the PROPERTY to be used for the purposes of unlawfully selling, serving, storing, keeping, manufacturing and/or giving away controlled substances, specifically cannabis.

60. The PROPERTY has a reputation in the community as a location where controlled substance, specifically cannabis, activity takes place.

61. Each BUSINESS OWNER DEFENDANT and PROPERTY OWNER DEFENDANT is an owner, lessee, or agent of the PROPERTY and of the fixtures and appurtenances contained within and on the PROPERTY and said fixtures and appurtenances were used, and are presently being used, directly or indirectly, by BUSINESS OWNER and PROPERTY OWNER DEFENDANTS in conducting, maintaining and/or permitting the use of the PROPERTY, including its grounds, buildings, and premises, for controlled substance activity in violation of Health and Safety Code section 11570 et seq.

62. Plaintiff has no adequate remedy at law. Unless BUSINESS OWNER DEFENDANTS and PROPERTY OWNER DEFENDANTS are restrained and enjoined by order of this Court, they will continue to use, occupy, maintain, and permit the PROPERTY, together with the fixtures and appurtenances located therein, for the purpose of selling, storing, distributing or giving away controlled substances, including cannabis, and they will continue to allow, permit and encourage this nuisance on the premises to the irreparable harm of the public.

FIFTH CAUSE OF ACTION
FOR VIOLATION OF THE LOS ANGELES MUNICIPAL CODE SECTION 12.21.A.1(a) –
AGAINST BUSINESS OWNER DEFENDANTS AND PROPERTY OWNER DEFENDANTS

63. Plaintiff hereby incorporates by reference paragraphs 1 through 62 of this Complaint and makes them part of this Fifth Cause of Action, as if fully set forth herein.

64. Since at least April 4, 2018, BUSINESS OWNER DEFENDANTS AND PROPERTY OWNER DEFENDANTS have been using the building or structure at the PROPERTY for unlicensed commercial cannabis activity, and are therefore in violation of LAMC section 12.21.A.1(a). A violation of section 12.21.A.1(a) constitutes a public nuisance under LAMC section 11.00 (I).

65. Plaintiff has no adequate remedy at law. Unless BUSINESS OWNER DEFENDANTS AND PROPERTY OWNER DEFENDANTS are restrained and enjoined by order of this Court, they will continue to unlawfully use the PROPERTY for cannabis sales in violation of LAMC section 12.21.A.1(a) and they will continue to allow, permit and encourage this public nuisance on the PROPERTY, to the irreparable damage of the public.

PRAYER

Wherefore, the People pray:

ON THE FIRST CAUSE OF ACTION:

A. That Defendants be found in violation of LAMC section 104.15, subsections (a) and (b) since at least April 4, 2018.

B. That Defendants each be assessed civil penalties in the amount of Twenty Thousand Dollars (\$20,000) per day pursuant to LAMC section 104.15, subsection (c) for violating LAMC section 104.15, subsections (a) and (b), in an amount not to exceed \$7,500,000.

C. That, pursuant to LAMC section 104.15, subsection (c), the Court issue a restraining order and/or preliminary and/or permanent injunction against Defendants, and each of them and their respective agents, officers, employees, heirs, assignees, transferees, legatees, volunteers, and anyone acting of their behalf, as follows:

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As to Business Defendants:

1. Do not establish, own, operate, participate in, or allow the operation of any commercial cannabis activity on the Property.

2. Do not establish, own, operate, participate in, or allow the operation of any commercial cannabis activity in the City of Los Angeles.

3. Do not use the Property for any marijuana or unlawful narcotics use.

4. Do not lease, sub-lease, transfer, or assign the Property for commercial cannabis activity or take any measures that will result in the use of the Property for commercial cannabis activity.

5. Do not allow any signage on the Property advertising commercial cannabis activity while in possession of the Property.

6. Do not deny or otherwise impede entry and access to any areas of the Property to members of the Los Angeles Police Department for the purpose of effectuating service of, and ensuring compliance with court orders.

7. Do not transfer, sell, assign, bequest, or otherwise cause or allow to be transferred, the Business or any of the Business' assets, inventory, or any other of its property in any manner that will result in the continued operation of a commercial cannabis activity on the Property.

8. Do not possess, offer, sell, give away or otherwise dispense cannabis or cannabis products from the Property or from any other location within the City of Los Angeles.

9. Do not advertise, in any manner, including on the Internet, the existence of a commercial cannabis activity of any kind, including availability of a delivery service at the Property or at any other property in the City of Los Angeles.

10. If the unlawful use relating to cannabis continues at the Property after service of a preliminary injunction or other court order ordering closure of the Business on the Business Defendants or its/his/her/their agent, heir, successor, officer, employee, and anyone acting on its/his/her/their behalf, designated City Department personnel may request the Department of Water and Power to disconnect the utilities of the Business. If they have not already done so, the Department of Water and Power may upon such request, disconnect the utilities and not reconnect them unless instructed to do so by the requesting City Department personnel.

1 11. If the unlawful use relating to cannabis continues at the Property after service of a
2 preliminary injunction or other court order ordering closure of the Business on the Business Defendants
3 or its/his/her/their agent, heir, successor, officer, employee, and anyone acting on its/his/her/their behalf,
4 designated City Department personnel may request a City Department or City Contractor that the
5 Property be secured to ensure that the unlawful use relating to cannabis is discontinued.

6 **As to Property Owner Defendants:**

7 12. Upon vacation of the Property by the commercial cannabis activity at the Property,
8 immediately take possession of the keys and secure the building(s) from unauthorized access.

9 13. In the event of the failure of the commercial cannabis activity at the Property to vacate the
10 Property within seven (7) days of issuance of a preliminary injunction, immediately institute and
11 diligently pursue an unlawful detainer action against the commercial cannabis activity and its operators
12 until the commercial cannabis activity is removed from the Property.

13 14. Do not rent or lease to a commercial cannabis activity or otherwise allow a commercial
14 cannabis activity to use the Property.

15 15. Do not allow the Property to be used for any unlawful narcotics or cannabis-related use.

16 16. Do not operate, participate in the operation of, or rent, lease, or sublease to any commercial
17 cannabis activity in the City of Los Angeles.

18 **As to Realtor Defendants:**

19 17. Do not rent or lease to a commercial cannabis activity or other allow a commercial
20 cannabis activity at the PROPERTY.

21 **ON THE SECOND CAUSE OF ACTION:**

22 A. That Defendants be found in violation of Business and Professions Code section 17200 et
23 seq. since at least April 4, 2018.

24 B. That Defendants, as well as their agents, heirs, successors, officers, employees, and anyone
25 acting on their behalf, be permanently enjoined from maintaining, operating, or permitting any act of
26 unfair or unlawful business acts and practices in violation of Business and Professions Code section
27 17200, including operating or allowing any commercial cannabis activity at the Property.

28 C. That the Court grant a temporary restraining order, preliminary and/or permanent

1 injunction prohibiting Defendants, as well as their agents, servants, employees, partners, principals,
2 assigns, volunteers, and all those acting in concert with, aiding and abetting, and/or participating with
3 them from engaging in the unlawful acts described herein at the Property.

4 D. That, on the Second Cause of Action, Defendants each be assessed civil penalties of Two
5 Thousand Five Hundred Dollars (\$2,500) pursuant to Business and Professions Code section 17206 for
6 each and every act of unlawful and unfair competition, and each and every day that Defendants
7 operated, participated in, or allowed the operation of a commercial cannabis activity on the Property, in
8 an amount not to exceed \$1,000,000.

9 E. That a receiver for the Business and the Property be appointed pursuant to Business and
10 Professions Code section 17203.

11 F. That, pursuant to the Court's equitable power and Business and Professions Code section
12 17203, the Court makes such orders or judgments as it deems necessary and appropriate, to eliminate the
13 unlawful or unfair competition alleged herein.

14 G. That Defendants be prohibited from establishing, owning, operating, allowing, participating
15 in, or renting or leasing to, the operation of any commercial cannabis activity at the Property and in the
16 City of Los Angeles.

17 **ON THE THIRD CAUSE OF ACTION:**

18 A. That Defendants be found in violation of Business and Professions Code section 17200 et
19 seq. since at least April 4, 2018.

20 B. That Defendants, as well as their agents, heirs, successors, officers, employees, and anyone
21 acting on their behalf, be permanently enjoined from maintaining, operating, or permitting any act of
22 unfair or unlawful business acts and practices in violation of Business and Professions Code section
23 17200, including operating or allowing any commercial cannabis activity at the Property.

24 C. That the Court grant a temporary restraining order, preliminary and/or permanent
25 injunction prohibiting Defendants, as well as their agents, servants, employees, partners, principals,
26 assigns, volunteers, and all those acting in concert with, aiding and abetting, and/or participating with
27 them from engaging in the unlawful acts described herein at the Property.

28

1 D. That, on the Third Cause of Action, Defendants each be assessed civil penalties of Two
2 Thousand Five Hundred Dollars (\$2,500) pursuant to Business and Professions Code section 17206 for
3 each and every act of unlawful and unfair competition, and each and every day that Defendants
4 operated, participated in, or allowed the operation of a commercial cannabis activity on the Property, in
5 an amount not to exceed \$1,000,000.

6 E. That a receiver for the Business and the Property be appointed pursuant to Business and
7 Professions Code section 17203.

8 F. That, pursuant to the Court's equitable power and Business and Professions Code section
9 17203, the Court makes such orders or judgments as it deems necessary and appropriate, to eliminate the
10 unlawful or unfair competition alleged herein.

11 G. That Defendants be prohibited from establishing, owning, operating, allowing, participating
12 in, or renting or leasing to, the operation of any commercial cannabis activity at the Property and in the
13 City of Los Angeles.

14 **ON THE FOURTH CAUSE OF ACTION:**

15 A. That all Defendants and the Property, including all buildings and structures thereon, be
16 declared in violation of Health and Safety Code section 11570 et seq.

17 B. That the Property, together with the fixtures and moveable property therein and thereon, be
18 declared a public nuisance and be permanently abated as such in accordance with Section 11581 of the
19 Health and Safety Code.

20 C. That the Court grant a temporary restraining order, preliminary injunction, permanent
21 injunction and order of abatement in accordance with Section 11570, et seq. of the Health and Safety
22 Code, enjoining and restraining Defendants and their agents, heirs, successors, officers, employees and
23 anyone acting on their behalf, from unlawfully selling, serving, storing, keeping, manufacturing, or
24 giving away controlled substances, including cannabis, on the Property.

25 D. That Defendants be prohibited from operating, permitting, conducting or in any way
26 sanctioning the operation of any type of cannabis related venture from the Property.
27
28

1 E. That the court issue such orders in accordance with Health and Safety Code section
2 11573.5, and such orders as are appropriate, to remedy the nuisance on the Property and enhance the
3 abatement process.

4 F. That as part of the Judgment, an Order of Abatement be issued, and that the Property be
5 closed for a period of one year, not to be used for any purpose, and be under the control and custody of
6 this Court for said period of time, or, in the alternative, that Defendants pay an amount equal to the fair
7 market rental value of the Property for one year to the City or County in whose jurisdiction the nuisance
8 is located in accordance with Health and Safety Code section 11581 subdivision (c)(1).

9 G. That Defendants each individually, be assessed a civil penalty in an amount not to exceed
10 Twenty-Five Thousand Dollars (\$25,000.00).

11 H. That all fixtures and moveable property used in conducting, maintaining, aiding or abetting
12 the nuisance at the Property be removed by the Los Angeles Police Department and sold in the manner
13 provided for the sale of chattels under execution and that all cannabis and related property be destroyed
14 by same. Said fixtures and property shall be inventoried and a list prepared and filed with this court.

15 I. That there shall be excepted from said sale, such property to which title is established in
16 some third party not a defendant, nor agent, officer, employee or servant of any defendant in this
17 proceeding.

18 J. That the proceeds from said sale be deposited with this court for payment of the fees and
19 costs of sale. Such costs may occur in closing said Property and keeping it closed, removal of said
20 property, and Plaintiff's costs in the action, including attorneys' fees, and such other costs as the court
21 shall deem proper.

22 K. That if the proceeds of the sale do not fully discharge all such costs, fees and allowances,
23 the Property shall also be sold under execution issued upon the order of the court or judge and the
24 proceeds of such sale shall be applied in a like manner. That any excess monies remaining after
25 payment of approved costs shall be delivered to the owner of said Property. Ownership shall be
26 established to the satisfaction of this court.

1 L. That Defendant Property Owner 5527 S. Central LLC file an unlawful detainer action to
2 evict Business Owner Defendants and diligently pursue the unlawful detainer action until they have
3 retaken possession of the Property.

4 M. That Defendant Property Owner 5527 S. Central LLC not rent, lease or otherwise allow
5 any other commercial cannabis activity to occupy or remain on the premises.

6 N. That Defendant Property Owners 5527 S. Central LLC not allow, permit or condone any
7 illegal use of the Property.

8 O. That Defendant Property Owner 5527 S. Central LLC, and any agents, officers, employees
9 and anyone acting on their behalf, and their heirs and assignees, be perpetually enjoined from
10 transferring, conveying, or encumbering any portion of the Property, for consideration or otherwise,
11 without first obtaining the Court's prior approval.

12 P. That Defendant Property Owner 5527 S. Central LLC, be prohibited from renting the
13 Property to any business that is not registered, permitted or licensed as required by law or is engaged in
14 and/or proposes to make illegal use of the Property.

15 Q. That Defendant Property Owner 5527 S. Central LLC, be ordered to immediately notify
16 any transferees, purchasers, commercial lessees, or other successors in interest to the subject Property of
17 the existence and application of any temporary restraining order, preliminary injunction, or permanent
18 injunction to all prospective transferees, purchasers, commercial lessees, or other successors in interest,
19 *before* entering into any agreement to sell, lease or transfer the Property, for consideration or otherwise,
20 all or any portion of the Property that is the subject of this action.

21 R. That Defendant Property Owner 5527 S. Central LLC be ordered to immediately give a
22 complete, legible copy of any temporary restraining order, preliminary injunction, or permanent
23 injunction to all prospective transferees, purchasers, commercial lessees, or other successors in interest,
24 *before* entering into any agreement to sell, lease or transfer the Property, for consideration or otherwise,
25 all or any portion of the Property that is the subject of this action.

26 S. That Defendant Property Owner 5527 S. Central LLC be ordered to immediately request
27 and procure signatures from all prospective transferees, purchasers, commercial lessees, or other
28 successors in interest to the subject Property, which acknowledges his/her respective receipt of a

1 complete, legible copy of any temporary restraining order, preliminary and permanent injunction, and
2 deliver a copy of such acknowledgment to the Los Angeles City Attorney's Office, c/o Deputy City
3 Attorney Suzanne Spillane or her designee.

4 T. That Plaintiff recover the costs of this action, including law enforcement investigative costs
5 and any fees, including attorneys' fees, authorized by law from all Defendants in an amount not to
6 exceed Seven Hundred and Fifty Thousand Dollars (\$750,000).

7 **ON THE FIFTH CAUSE OF ACTION:**

8 A. That Defendants be found in violation of LAMC section 12.21.A.1(a) since at least April 4,
9 2018.

10 B. That the Court grant a temporary restraining order, preliminary and/or permanent
11 injunction prohibiting Defendants, as well as their agents, servants, employees, partners, principals,
12 assigns, volunteers, and all those acting in concert with, aiding and abetting, and/or participating with
13 them from engaging in the unlawful acts described herein at the Property.

14 C. That, on the Fifth Cause of Action, Defendants each be assessed civil penalties of Two
15 Thousand Five Hundred Dollars (\$2,500) per day pursuant to LAMC Section 11.00 (I) in an amount not
16 to exceed \$1,000,000.

17 D. That Defendants be prohibited from operating, permitting, conducting or in any way
18 sanctioning the operation of any type of commercial cannabis activity at the Property.

19 E. That this Court order the Defendants to take the following actions:

20 (a) Remove all signage from the Property advertising commercial cannabis activity;

21 (b) Do not advertise in any manner, including on the Internet, the existence of any
22 commercial cannabis activity of any kind at the Property;

23 (c) Advise any person who enters the Property that the commercial cannabis activity is
24 closed;

25 (d) Do not operate or permit anyone to operate or engage in any commercial cannabis
26 activity or medical marijuana facility or collective or cooperative, and/or possess, offer,
27 sell, give away or otherwise dispense cannabis from the Property and from any location
28 within the City of Los Angeles.

1 F. That the Court issue such orders in accordance with LAMC section 11.00 (l) and such
2 orders as are appropriate, to remedy the nuisance on the Property; and

3 G. That the Court issue such orders in accordance with LAMC section 11.00(l) and such
4 orders as are appropriate to remedy the nuisance on the Property.

5 **ON ALL CAUSES OF ACTION:**

6 A. That Plaintiff shall record the preliminary and/or permanent injunction with the Los
7 Angeles County Recorder.

8 B. That Plaintiff recover the amount of the filing fees and the amount of the fee for the service
9 of process or notices which would have been paid but for Government Code section 6103, designating it
10 as such. The fees may, at the Court's discretion, include the amount of the fees for certifying and preparing
11 transcripts.

12 C. That Plaintiff recover allowable costs.

13 D. That Plaintiff be granted such other and further relief as the Court deems just and proper.
14

15 Dated: April 15, 2019

Respectfully submitted,

16 MICHAEL N. FEUER, City Attorney
17 ARTURO A. MARTINEZ, Senior Assistant City Attorney
18 MEREDITH McKITTRICK, Sup. Deputy City Attorney

19 By: 

20 SUZANNE V. SPILLANE, Deputy City Attorney
21 Attorneys for Plaintiff, THE PEOPLE OF THE
22 STATE OF CALIFORNIA
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